

business income onto our personal tax returns. That is allowed under the Tax Code, under what is known as Chapter S, under the Tax Code. We were an S corporation. So while my tax return showed the amount I was paid while I was the CEO of that company, it also showed my share of the profits of the company. None of that came to me. All of that was reinvested in the company. But for tax purposes, it showed up on my tax return. So I, very quickly, for tax purposes, was an American earning more than \$250,000 a year. I was not, but my tax returns showed that I was.

Now, the top tax rate was 28 percent. This was while Ronald Reagan was President. If we were to start that business today and the President's budget were to pass and the President's Tax Code were to be enforced, we would now be paying not 28 percent but 42 percent because you would go to 39.5 percent and then you would have the other add-ons connected with Medicare and the other things that have been changed. I do not believe the business would have survived. I think that tax burden would have been so heavy that we would not be able to make it.

Let me give you the numbers from my own State, to show how important this is. In the State of Utah, we have 68,758 small businesses that employ less than 500 people; we have 65,693 small businesses that employ less than 50 people, and we have 61,057 small businesses that employ less than 20 people.

So the number of people employed by small businesses in Utah—this rules out the farmers, this is not agriculture—is 760,096 in businesses with less than 500 people each. That is 61 percent of Utah's entire employment population.

Now, if you increase the taxes on all of those people on the assumption that they are rich, you increase the taxes on every one of those businesses because they are rich. Look, the owners of the businesses are filing tax returns to show over \$250,000 so they must all be Wall Street brokers and traders. Right.

Now, they are people who are struggling to make the business grow, struggling to provide the jobs. Make no mistake, the tax increases proposed by President Obama's budget will hurt Utah's small businesses, hundreds of thousands of our employees, our State's economy, and that means, at large, our national economy. So it is a mixed message. The goal is job creation, but the budget will hurt the greatest engine of job creation which is small businesses.

Second, the administration's goal is to increase service in America and invest in the nonprofit sector. That sounds wonderful. Then they turn around and say: If you invest in the nonprofit sector, you, American citizens, we are going to take away a portion of your tax deduction for the gift you give to charity. This is a double hit.

If I am running my small business I have just described, the tax man shows

up and gives me less than I can give to charity, and then if I do give some to charity, the tax man shows up and takes more of that away from me by eliminating part of my tax deduction for charity. That is a mixed message. We want you to do this, but we are creating an economic incentive that makes it difficult for you and will penalize you.

Now, finally, the administration has the goal to protect the majority of Americans from tax increases. The President has said over and over that he will not increase taxes for 95 percent of Americans. That sounds wonderful until you turn around and recognize that he is proposing a new energy tax at the gas pump and on your utility bill that will hit 100 percent of Americans.

So on one side: Well, we are not going to hit you on the income tax side. But we are going to take it away from you on the gas pump and utility side. This is because he wants to create a cap-and-trade program. Other countries have cap-and-trade programs. I was in the United Kingdom. I talked to the people about theirs. As they were outlining how it works, I said to them: Do your ratepayers understand they are paying this? This is not money that is created in Heaven.

The answer I got was: Well, they are beginning to. We all saw the reaction of Americans when gas was \$4 a gallon at the pump, and we all felt the heat as our constituents came us to and said: You have got to do something about this; this is far too much for us to pay for gasoline.

Then when the prices came down, that political outrage began to disappear. However, if you do cap and trade in the way the President wants, those prices will start to creep up again. It will be at the gas pump, it will be at the utility. So it is another mixed message.

We have three mixed messages. We want to create jobs, but we are going to tax the greatest engine of creating jobs. We want people to get involved in national service, but we are going to tax them and penalize them if they do. We want Americans, ordinary Americans, to go without tax increases, but we are going to increase their taxes on energy and hit them with a fund that will amount to approximately \$650 billion, by virtue of the carbon tax that will come through the cap-and-trade program.

What is the consequence of all of this? My colleagues have talked about the fact that the record spending is going to double the national debt in 5 years, triple it in 10 years. How is the administration going to pay for that? In the ways I have described. They are going to do it through increased taxes.

There is one last thought I want to leave everyone. We can determine here in the Congress how much we spend. We cannot determine here in the Congress how much we take in. We can pass a tax law that will project a cer-

tain amount that will come in, but that projection will not come to pass if the economy is not strong. Money does not come from the budget. Money comes from the economy. If the economy is weakened, if the generations of economic growth are weakened in the ways I have described, we will not have the money with which to pay the debt.

So we come back to that which the distinguished Republican leader has said at the beginning of this debate: If you take the President's budget all in all, it spends too much, it taxes too much. And when the taxes do not cover what is being spent, it borrows too much.

I may not be a macroeconomist, but I have a long history of running a business and knowing how devastating the tax man's arrival can be to that business. I have a history of creating jobs, jobs that pay taxes as the employees are compensated. I know this aspect of our economy is one that the Obama administration would be well advised to pay attention to.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I ask unanimous consent that at 5 p.m. today, the Senate proceed to vote on confirmation of the nomination of Elena Kagan, and that all debate time on the nomination be yielded back, except that the chairman and ranking member or their designees have 2 minutes each immediately prior to the vote; further, that all provisions of the previous order governing the nomination continue to be effective.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I have heard a lot of debate here today. I remind Senators of one thing: The Kagan nomination is not controversial. Every Solicitor General who served from 1985 has endorsed her nomination. That is every Democratic one, every Republican one, across the political spectrum.

Let me read some of the names who have endorsed this woman Charles Fried, Ken Starr, Drew Days, Walter Dellinger, Seth Waxman, Ted Olson, Paul Clement, Greg Garre. Here is what they wrote in their letter of support:

We who have had the honor of serving as Solicitor General over the past quarter century in the administrations of Presidents Ronald Reagan, George H.W. Bush, William Clinton and George W. Bush, write to endorse the nomination of Dean Elena Kagan to be the next Solicitor General of the United States. We are confident that Dean